

REMARKS

By this amendment, the limitations of claim 3 have been moved into claim 1, and claim 3 has been canceled. Given that claim 3 was deemed allowable, claims 1-7 should be allowable as well. New claims 8-13 have been added, with independent claim 8 including the limitations of claims 1 and 2, with the addition of fluorescence wavelengths.

Although claim 2 was rejected under 35 U.S.C. §103(a) over Kuramoto et al. ('795) in view Alfano et al. ('410), it is Applicant's position that the Examiner has failed to establish *prima facie* obviousness. In rejecting claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art, or to combine references, to arrive at Applicant's claimed invention. There must be something *in the prior art* that suggested the combination, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is also required to make specific findings on a suggestion to combine prior art references. In Re Dembiczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

In this case, the Examiner states that "it would have been obviousness to one having ordinary in the art at the time of invention to use Raman spectra because certain body constituents produce distinguishable Raman spectra when illuminated with the proper wavelength." While it is true that certain body constituents produce distinguishable Raman spectra when illuminated with the proper wavelength, this is not a sufficient justification for combining references. In point of fact, there is no teaching or suggestion *from the prior art* to combine Kuramoto and Alfano. Whereas Kuramoto is directed to a cleaning tube apparatus for an endoscope, wherein the "wavelengths" are an optical image

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and not wavelength-shifted spectra, Alfano et al. is directed to a method for examining tissues using Raman spectroscopy with an endoscope (63) that has no window-cleaning mechanism or, for that matter, appears to have no window to clean. Given insufficient motivation to combine, obviousness is clearly precluded.

Based upon the foregoing, Applicant believes all pending claims are in condition for allowance. Questions regarding this application may be directed to the undersigned at the telephone/facsimile numbers provided.

Attached is a version showing the changes made to claims 1 and 2.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

1. (Amended) An optical probe with a self-cleaning sampling window, comprising:
 - a probe body having a window with a surface oriented toward a sample under investigation;
 - a sampling beam of light carrying wavelengths representative of the sample into the probe body through the window for analysis;
 - a conduit carrying a fluid to the surface of the window oriented toward the sample; [and]
 - a structure operative to flood the window with the fluid, the structure including an aperture through which the sampling wavelengths pass; and
 - wherein at least a portion of the fluid passes though the aperture to ensure that the sample under investigation does not reach the window.
2. (Amended) The optical probe of claim 1, wherein the wavelengths are representative of Raman or fluorescence spectra.

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